



## **STATE OF NEW JERSEY**

**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

### TELECOMMUNICATIONS

IN THE MATTER OF THE APPLICATION OF VERIZON )	
NEW JERSEY, INC. FOR APPROVAL OF A RESALE )	
AGREEMENT WITH CHOCTAW COMMUNICATIONS, )	<u>ORDER APPROVING</u>
INC. D/B/A SMOKE SIGNAL COMMUNICATIONS )	<u>RESALE AGREEMENT</u>
UNDER SECTION 252 OF THE )	
TELECOMMUNICATIONS ACT OF 1996 )	DOCKET NO. TM00090644

(SERVICE LIST ATTACHED)

BY THE BOARD:

### BACKGROUND

By letter dated September 13, 2000, Verizon New Jersey, Inc. (Verizon) filed an application (Application) for approval of a negotiated Resale Agreement (the Agreement) between Verizon and Choctaw Communications, Inc. d/b/a Smoke Signal Communications (Choctaw) with the Board of Public Utilities (Board) pursuant to Section 252(e) of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq. (the Act). Choctaw authorized Verizon to file the application on its behalf.

### RESALE AGREEMENT

The Agreement, dated April 28, 2000, sets forth the terms, conditions and prices under which Verizon will offer and provide to Max-Tel telecommunications services available for resale and resale support. The Agreement shall continue in force and effect unless and until terminated as provided in the Agreement.

By letter dated October 17, 2000, the Division of the Ratepayer Advocate (the Advocate) filed comments on the Agreement. In summary, the Advocate stated that it is satisfied that the Agreement does not discriminate against other carriers and is consistent with the public interest, convenience and necessity, and therefore recommended that the Board approve the Agreement.

### DISCUSSION

Pursuant to 47 U.S.C. §252(a)(1), an incumbent LEC may negotiate and enter into a binding interconnection agreement with a carrier requesting interconnection, services or elements without regard to the standards set forth in 47 U.S.C. §251(b) and (c).

47 U.S.C. §252(e)(1) requires approval by the Board of any interconnection agreement adopted by negotiation or arbitration, and further requires the Board to approve or reject the Agreement, with written findings as to any deficiencies. The Act provides that the Board may reject a negotiated agreement only if it finds that:

- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

[47 U.S.C. §252(e)(2)(A)].

We note that pursuant to 47 U.S.C. §252(e)(4), this Resale Agreement has been deemed approved. The Board's review of the Agreement in this matter indicates that the Agreement is consistent with the public interest, convenience and necessity, and that the Agreement does not discriminate against telecommunications carriers not parties to the Agreement.

Therefore, the Board FINDS that the Agreement meets the standards set forth in the Act, and HEREBY APPROVES the Agreement as presented by the Parties. This approval should not be construed as preapproval of any future petitions for rate recovery of costs incurred pursuant to the Agreement. The Board's approval does not constitute a determination concerning Verizon's obligations pursuant to Section 271 of the Act, although this Agreement will be taken into consideration in that determination. In addition, approval does not constitute a determination concerning, nor shall the Board be bound by, provisions within this Resale Agreement regarding the confidentiality of information.

Additionally, the Board DIRECTS the Parties to conform to all federal and state statutes and Board regulations regarding service quality standards and customer relations, as applicable, including, but not limited to, those related to the resale of telecommunications services, the solicitation of resale customers and the submission of primary interexchange and local exchange carrier change orders to local exchange carriers.

Pursuant to 47 U.S.C. §252(h), a copy of the Agreement will be made available for public inspection and copying within ten days of the issuance of this Order. Subsequent amendments or modifications of the Agreement are subject to review and approval by the Board.

DATED: 5/20/03

BOARD OF PUBLIC UTILITIES  
BY:

signed  
JEANNE M. FOX  
PRESIDENT

signed  
FREDERICK F. BUTLER  
COMMISSIONER

signed  
CAROL J. MURPHY  
COMMISSIONER

signed  
CONNIE O. HUGHES  
COMMISSIONER

signed  
JACK ALTER  
COMMISSIONER

ATTEST:

signed

KRISTI IZZO  
SECRETARY